

# ARIZONA RACING COMMISSION

609<sup>TH</sup> REGULAR MEETING

WEDNESDAY, NOVEMBER 09, 2011

## MINUTES OF REGULAR MEETING

A public meeting of the Arizona Racing Commission was convened on Wednesday, November 09, 2011, beginning at 10:00 a.m. in the Building Conference Room, Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

<b>Present:</b>	<b>Chair</b>	<b>Erin Owens</b>
	<b>Vice-Chair</b>	<b>A. Melvin McDonald (Appeared Telephonically)</b>
	<b>Commissioner</b>	<b>Thomas E. Kelly</b>
	<b>Commissioner</b>	<b>Burton S. Kruglick</b>
	<b>Commissioner</b>	<b>Jay McClintock</b>

**Also Present:** Lonny T. Powell, Director, Montgomery Lee, Assistant Attorney General, and Cassie Goodwin, Commission Secretary.

### **A. Call to Order**

**Chair Owens** called the 609<sup>th</sup> Regular Meeting of the Arizona Racing Commission to order at 10:01 a.m. The following matters were discussed, considered and decided at the meeting:

#### **Approval of the Minutes:**

1. Minutes of the 608<sup>th</sup> Regular Meeting held on Wednesday, September 14, 2011 – **Commissioner McDonald** moved to approve the minutes. **Commissioner Kruglick** seconded the motion. Motion Carried.
2. Minutes of the Special Meeting – Director Search held on Friday October 28, 2011 – **Commissioner McDonald** moved to approve the minutes. **Commissioner McClintock** seconded the motion. Motion Carried.

### **B. New Business**

1. **Special Guest Senator Steve Pierce, Senate Majority Whip and Horse Owner/Breeder regarding the future of racing in Arizona.** **Chair Owens** called and introduced the guest speaker, Senator Pierce. **Honorable Pierce** updated the Commission and audience regarding matters related to the future of the Arizona racing industry, the economy, and jobs.
2. **Department Recommendation & Possible Action on the Following County Fair Racing Permit Applications for a Three Year Period (Fiscal Years 2012, 2013, and 2014)**
  - a. **Maricopa County Fair, Inc.**
  - b. **Navajo County Fair, Inc.**
  - c. **Pinal County Fair Fairgrounds**

**Director Powel** asked Assistant Director Cozby to address these items. **Assistant Director Cozby** informed the Commission that there are three permit applications before the Commission. Because the Fairs are racing their days at Turf Paradise, they are required to have approval from the County Board of Supervisors and a signed contract with Turf Paradise racetrack.

a. **Maricopa County Fair, Inc.:** **Assistant Director Cozby** informed the Commission that there is a problem with this application as the Maricopa County Fair does not have a signed contract with Turf Paradise Racetrack or approval from the Maricopa County Board of Supervisors. The Maricopa County Fair submitted its request to the Maricopa County Board of Supervisors however there doesn't seem to be a record of the application. The Maricopa County Fair has been approved every year to race at Turf Paradise Racetrack since 1985. The first date of their race meet is January 7, 2012. Because there is no December Commission meeting, the Department is requesting the Commission approve the application contingent upon approval of the Maricopa County Board of Supervisors and a signed contract with Turf Paradise Racetrack before the first race date of January 7, 2012. **Commissioner Kruglick** moved to approve the application for three years contingent upon the Maricopa County Board of Supervisor's approval and a signed contract with Turf Paradise Racetrack prior to the commencement date of January 7, 2012. **Commissioner McDonald** seconded the motion. Motion Carried.

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- b. **Navajo County Fair, Inc.:** Assistant Director Cozby informed the Commission that Navajo County Fair has received approval from their County Board of Supervisors, they have a signed contract with Turf Paradise racetrack, and their contract is for fiscal year 2012 with Turf Paradise racetrack. It is her understanding that Turf Paradise racetrack will provide contracts for fiscal years 2013 and 2014 once their commercial racing permit has come before the Commission and has been approved. Their current commercial permit expires at the end of May in 2012. The Department recommends approval of Navajo's application as submitted. **Chair Owens** asked if the Commission would only be voting on 2012 because of the contract? **Assistant Director Cozby:** the Commission can approve the three year permit and Navajo County Fair will be required to submit a contract with Turf Paradise each year before they race. **Chair Owens** asked for a motion and vote to approve Navajo County Fair's contract with Turf Paradise racetrack for fiscal year 2012 dates of March 3, 4, 10 and 11; fiscal year 2013 dates of March 2, 3, 9 and 10; and fiscal year 2014 dates of March 1, 2, 8, and 9. **Commissioner McDonald** moved to approve the motion. **Commissioner McClintock** seconded the motion. Motion Carried.
- c. **Pinal County Fair Fairgrounds:** Assistant Director Cozby informed the Commission that Pinal County does not have a signed contract with Turf Paradise Racetrack. Because the dates they have requested are in February 2012, we ask that this application be withdrawn and possibly brought back at the January Commission Meeting. **Assistant Attorney General Lee:** the Commission may table this item and take no action today so a vote would not be required. This matter was tabled.
3. **Department's Proposed Amendment to Administrative Rule A.A.C. R19-2-205 (Regulatory Wagering Assessment of Pari-Mutuel Pools) – Increase in Assessment Percentage:** **Chair Owens** asked Director Powell to address the Commission on this item which the Commission will take a vote on today. **Director Powell** noted that early this past summer the Commission had approved the Department's funding mechanisms as passed by the Legislature that would allow the Department to begin the conversion from a General Fund agency to self funding. That self funding level reaches 100% starting July 1, 2012. There are four different categories of funding. The Regulatory Wagering Assessment provides most of the funding for the Department. This funding level must be increased to meet FY 2013 funding requirements. The Department is still under the exemption of the rulemaking process through June 2012. Director Powell asked that the Commission act on this matter now, making the change effective on July 1, 2012. The new Director, Senior staff and the Commission will still have an opportunity to make adjustments if necessary before the exemption ends. Director Powell asked. **Bill Walsh, Chief Steward & Supervisor of Wagering and Officials** to address this issue. Mr. Walsh advised there was only one area of the Rules that needed adjustment, A.A.C. R19-2-205, the regulatory wagering assessment. The Department is asking that the assessment to be deducted from the wagering pool on both in-state and out-of-state be increased from .375% to 1%, effective July 1, 2012. The Department has had several meeting with stakeholders and we feel this number is adequate to meet FY 2013 budget requirements. **Tom Metzen, Executive Director of the Horsemen's Benevolent and Protective Association ("HBPA")**, addressed the Commission and advised that though he agrees that the self-funding program was the best option for the time, the current new funding mechanism needed to ultimately be replaced by a longer-term plan with other revenue sources besides wagering handle. **Commissioner Owens:** if there was a motion to approve the rule change as submitted and then to bring it back before the Commission at the January, February and March meetings as a discussion item knowing the new Director will have the ability to adjust the 1% prior to March. **Commissioner McClintock** moved to approve the rule change as submitted and bring the matter before the Commission at the January, February and March meetings as a discussion item. **Commissioner Kruglick** seconded the motion. Motion Carried.
4. **Request for Charity Dates for Turf Paradise Racetrack:** Director Powell asked Assistant Director Cozby to address this item. **Assistant Director Cozby** informed the Commission that the statutes allow each racetrack permittee to operate up to three (3) racing days during any one meeting as charity days. The permittee contributes an amount equal to or greater than the amount which otherwise would have gone to the State as the State's share on a non-charity racing day to a non-profit organization which benefits the general public. Turf Paradise racetrack has applied again this year for three (3) charity days. They are Saturday, December 20, 2011, Saturday, December 17, 2011 and Monday, December 26, 2011. They have complied with all the requirements and the Department recommends approval of this application. **Chair Owens:** asked

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for a motion to approve the Charity dates. **Commissioner McDonald** moved to approve the Charity Dates as submitted. **Commissioner McClintock** seconded the Motion. Motion Carried.

5. **New Director Search Process Update:** **Chair Owens** advised there was a Special Meeting on October 28, 2011. During the meeting a description of the position was reviewed and the process was discussed on the search. A two person committee was formed of herself and Commissioner McClintock to do a review of the applicants and determine which ones to be formally interviewed by the Commission. The Department has 60 days, once there is a vacancy, to submit a three-person list of applicants to the Governor's office for consideration. The Governor's office will make a selection from the list or send it back to the Commission if none of those candidates meet their criteria. At that time, the Commission would submit a second list of candidates and, hopefully, the Governor's office will appoint an individual from that list. If none of the Commission suggestions meet the Governor's criteria, then the Commission may have the ability to appoint the new Director. The nice thing is the Department is getting a jump-start on the process since Director Powell is still here and available to offer his assistance until he leaves at the end of December. The first review of applications will take place in thirty days. **Director Powell:** the job description was posted on Monday, October 31, 2011 on the Arizona Department of Administration and Department's web sites as well various industry related websites. He thanked the Commission, the Governor's office and the Department of Administration for moving quickly to help fill the position. Even though his last day is December 31<sup>st</sup>, it would be reasonable to expect that some or all of January may not get covered with the new director. After talking with the Governor's office, senior staff, and the Commission, Bill Walsh has volunteered to serve as the Interim Director from January 1, 2012 until the position has been filled. At some point in mid-December he will transition anything he is working on to Mr. Walsh who can then turn things over to the new Director. Hopefully the transition will work smoothly.

## C. Information Reports

### 1. Department Monthly Update

a. **Status of Yavapai Downs Racing Permit Renewal Application:** **Director Powell** asked Assistant Attorney General Montgomery Lee to address this item. **Assistant Attorney General Montgomery Lee:** the bankruptcy trustee has asked that the Commission continue the matter and not act on it at this time. There is a possibility that the Trustee will ask the Bankruptcy court to intervene if there is a premature action on the application for the permit. At this point no racing is being conducted and there doesn't appear to be an urgent need for action on the renewal application. The Trustee is requesting that the matter be continued. **Director Powell:** he and Assistant Attorneys General Lee and Williams have discussed this matter and that would be his recommendation, to continue to wait and take no action on the matter. **Chair Owens:** can this matter be continued to the January Agenda? **Director Powell:** the Department's plan is to put it on the January Agenda; the Trustee may reach out to either the Attorney General or Ms. Cozby and start the conversation again. But as far as today's plan is, we will put it on January's agenda.

b. **Increased Surveillance & Enforcement to Deter Administration of Alkalinizing Substances ("Milkshakes"):** **Director Powell** reminded that the practice of "milkshaking" horses is not permitted by the Department and violators will be pursued and sanctioned.

c. **Permit Application Process Efficiency and Enhancement Discussions Review and Modifications:** **Director Powell** reported there was a round-robin discussion in the Department's continuing efforts to find ways to improve procedures and practices in the Department when looking at the application process. He received a lot of input from the attendees and senior staff and the Department will continue to try to make the process more modernized and efficient as we go along. We appreciate the input.

d. **Departing Remarks by the Out-Going Director:** **Director Powell** thanked the industry, Commission and his staff for the great support and cooperation extended to him during his tenure. He also offered his thoughts and advice on maximizing potential, being proactive, positive, and constructive in the dealings with others and each other. **Chair Owens:** there wasn't much more she could add to Director Powell's statement and she thinks he did a very good job of identifying the highlights and some of the lows of the past two years. She advised Director Powell that she very much appreciated having him here. She appreciates the fact the he hasn't been afraid to go into uncharted waters, specifically self funding. It's not a place we want to stay but it's a place we have to live with right now. She applauded Director Powell's vision and the

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industry's willingness to support his vision. So she appreciates the staff he has brought together. She thinks we have always had a good staff but there's been change and growth and she thinks he has helped them grow as well by giving new responsibilities and having new accountability for people and changing the mix. She thinks the Department is better today than when he arrived two years ago. She wished Director Powell the best of luck in Florida.

## 2. Permittee Reports:

a. **Turf Paradise: Vince Francia, General Manager**, thanked Director Powell for his service to the industry and the State and wished him well in Florida. He then advised over all at Turf the handle continues to be down. Winners' earnings is down the attendance is up so we have a balance point going on there. The horse population right now is 1,760 and he expects to be filled by the end of November. Breeders Cup weekend handle was down as attendance was down as it was nationally, so we are reflecting what is going on nationally. **Chair Owens**: asked for clarification on attendance being live or overall. **Mr. Francia**: live attendance. **Chair Owens**: what percentage of wagering is down? **Mr. Francia**: 18%. It's a big number and primarily out of state which ties into when Mr. Metzen was speaking about Mid-Atlantic, which is a big number. **Chair Owens**: thanked Mr. Francia for the information.

b. **Tucson Greyhound Park**: No report given due to General Manager Tom Taylor was caught-up in the I-10 closure between Tucson and Phoenix.

c. **Rillito: Patti Shirley, Vice President** – they will miss Director Powell.

d. **American Greyhound Racing: Ed Braunger** – He wished Mr. Powell the best of luck and thanked him for doing a tremendous job for the past two years. **Director Powell**: thanked him. **Mr. Braunger**: the American Greyhound Racing, with Max's Sports Bar, Apache Greyhound Park and their OTB system is doing better than expected. He believes it is tied into the fact that they have a Players' Reward system and this has maintained the participants that they have.

e. **County Fairs**: No report given.

## 3. Optional Industry Stakeholder Association

a. **Arizona Greyhound Association: Bill Rice** – there was nothing new from the Arizona Greyhound Association and he thanked Director Powell for his service and wished him the best in Florida.

b. **Arizona Quarter Racing Association: Chair Owens** advised that Loretta Brasher was unable to attend the meeting and read the following information provided for the record: Quarter horse racing has been extended through the month of January at Turf Paradise. AQRA and the quarter horse men are very happy and appreciative of the opportunity this affords our industry. We would like to publicly thank Turf Paradise management and the HBPA for these additional racing dates. After having to cancel the Fall Mixed Sale in October, the AQRA will offer a Winter Mixed Sale at Rillito on February 4, 2012, featuring "Horses in Training" for both quarter horses and thoroughbreds. Horses can be showcased on the track with official works throughout the morning before the sale. The AQRA will then host their end of year Awards Banquet, Hall of Fame Induction and bidding will open for the annual Stallion Service Auction.

c. **Arizona Thoroughbred Breeders Association: Yvonne Kunz, Executive Director** – thanked Director Powell for all of his help.

d. **Horsemen's Benevolent & Protective Association: Tom Metzen, Executive Director** – thanked Director Powell for his hard work in Arizona and expects to see him when he's in Florida. HBPA has been meeting with Turf Paradise on a regular basis to resolve the issues Mr. Miller previously brought before the Commission. They are making headway on the issues and will continue to meet and get them resolved. They are working with others in the industry to find ways to increase their handle.

e. **Jockey's Guild**: No report given.

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- D. Commission Reports:** Chair Owens advised the Commission would bring back Items B.3 and B.5 for the January Agenda and provide information on Yavapai Downs when available. RCI has its board meeting in Tucson in December as well as the University of Arizona Racing and Gaming Symposium, both of which are the first week in December.

There is no meeting in December. The next regular Commission meeting will be held **Wednesday, January 11, 2012, at 10:00 a.m.** in Building Conference Room Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

- E. Call to the Public:** No one from the public addressed the Commission.


**Adjournment:**

Chair Owens called for a Motion to Adjourn. Commissioner McDonald moved to adjourn the meeting. Commissioner McClintock seconded the motion. **Motion Carried.**

This public meeting adjourned at 11:16 a.m.

Dated this 11<sup>th</sup> day of January, 2012.

Arizona Racing Commission

By   
Cassie Goodwin, Commission Secretary